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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1960

No. 470

LAMBERT WILLETT, Petitioner

COMMISSIONER OF INTERNAL REVENUE, Respondent

MARY T. WILLETT, Petitioner

COMMISSIONER OF INTERNAL REVENUE, Respondent

JOHN L. WILLETT, Petitioner

COMMISSIONER OF INTERNAL REVENUE, Respondent

THOMPSON & VIRGINIA S. WILLETT, Petitioners

COMMISSIONER OF INTERNAL REVENUE, Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

CHARLES T. DAWSON,

JOHN A. FULTON,
RUCKER TODD,
BULLITT, DAWSON & TARRANT,
WOODWARD, HOBSON & FULTON,
BROWN, ARDERY, TODD & DUDLEY

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IN THE

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October Term, 1960

No. _____

LAMBERT WILLETT, - - - - - *Petitioner,*

v.

COMMISSIONER OF INTERNAL REVENUE, - - *Respondent.*

MARY T. WILLETT, - - - - - *Petitioner,*

v.

COMMISSIONER OF INTERNAL REVENUE, - - *Respondent.*

JOHN L. WILLETT, - - - - - *Petitioner,*

v.

COMMISSIONER OF INTERNAL REVENUE, - - *Respondent.*

THOMPSON & VIRGINIA S. WILLETT - - - *Petitioners,*

v.

COMMISSIONER OF INTERNAL REVENUE, - - *Respondent.*

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

Petitioners pray that a writ of certiorari issue so that this Court may review the judgment entered on July 12, 1960, in these cases by the United States Court of Appeals for the Sixth Circuit.

OPINIONS BELOW.

The opinion of the Tax Court (T. C. Memo. 1957-189) (App. 439a-482a)* is reported at 16 CCH Tax Ct. Mem. 840 and is printed as Appendix A to this Petition. A supplemental opinion of the Tax Court (T. C. Memo. 1958-20) (App. 541a-550a)* is reported at 17 CCH T. C. Mem. 93 and is printed as Appendix B to this Petition. The opinion of the Court of Appeals is reported at 277 F. 2d 586 and is printed as Appendix C to this Petition. A July 12, 1960, Order of the Court of Appeals, as yet unreported, is printed as Appendix D to this Petition.

JURISDICTION.

The judgment of the Court of Appeals was dated and entered April 12, 1960. A timely motion for rehearing was denied by the Court of Appeals through an order entered July 12, 1960. It is believed that under 26 U. S. C. §7482(a) and 28 U. S. C. §1254(1) this Court has jurisdiction to review the judgment of the Court of Appeals.

QUESTION PRESENTED.

When the Tax Court has determined that the legal effect of undisputed evidentiary facts is that a sale of stock of a corporation was a sale of partnership assets previously transferred to such corporation, may the

*The reference is to the Appendix to the Petitioners' Brief in the Court of Appeals.

Court of Appeals review that legal conclusion of the Tax Court free of the restraining impact of the so-called "clearly erroneous rule" applicable to ordinary findings of fact by the Tax Court?

STATUTES INVOLVED.

1. Internal Revenue Code of 1954, §7482(a):

"The United States Courts of Appeals shall have exclusive jurisdiction to review the decisions of the Tax Court, except as provided in section 1254 of Title 28 of the United States Code, in the same manner and to the same extent as decisions of the district courts in civil actions tried without a jury; and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 1254 of Title 28 of the United States Code."

2. Federal Rule of Civil Procedure 52(a):

"In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon and direct the entry of the appropriate judgment; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses.